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Paper No. 10

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FEB 25 2003

In re Application of :
Sudhirdas Prayaga, :
Richard Shimkets, Kumud Majumder, :
Andrew Eisen, Corine Vernet, :
Steven Spaderna, Jason Baumgartner, :
Linda Gorman, Vladimir Gusev, :
Muralidhara Padigaru, :
Meera Paturajan, Velizar Tchernev, :
and Li Li :
Application No. 10/083919 :
Filed: February 27, 2002 :
Attorney Docket No. 15966-575CIP :
(CURA-75CIP) :
Title: ENDOZEPINE-LIKE POLYPEPTIDES:
AND POLYNUCLEOTIDES ENCODING SAME :

OFFICE OF PETITIONS

DECISION ACCORDING STATUS
UNDER 37 C.F.R. § 1.47(a)

This is in response to the "Petition for Filing Patent Application under 37 C.F.R. § 1.47(a)," filed November 22, 2002.

The petition under 37 C.F.R. § 1.47(a) is GRANTED.

The above-identified application was filed on February 27, 2002, with an unexecuted declaration. Sudhirdas Prayaga, Richard Shimkets, Kumud Majumder, Andrew Eisen, Corine Vernet, Steven Spaderna, Jason Baumgartner, Linda Gorman, Vladimir Gusev, Muralidhara Padigaru, Meera Paturajan, Velizar Tchernev, and Li Li were named as joint inventors. Accordingly, on April 22, 2002, applicants were mailed a "Notice to File Missing Parts of Application," requiring an executed oath or declaration, and a surcharge for its late filing. This Notice set a period for reply of two months, with extensions of time obtainable under § 1.136(a).

With the instant petition, petitioner submitted three separate declarations executed, in combination, by joint inventors Prayaga, Shimkets, Eisen, Vernet, Spaderna, Baumgartner, Gorman, Gusev, Padigaru, Paturajan, Tchernev and Li on behalf of themselves and on behalf of non-signing joint inventor Majumder; and paid the surcharge for late filing. To make this response timely, petitioner submitted a petition (and fee) for a extension of the period for response to November 22, 2002.

Applicant maintains that status under § 1.47(a) is proper because joint inventor Majumder has refused to join in the application. In support thereof, rule 47 applicants submit, *inter alia*:

- a copy of the cover letter dated October 25, 2002, transmitting the application papers to inventor Majumder by certified mail return receipt requested;

- a letter dated November 2, 2002, from inventor Majumder on the subject of signing patent applications and requesting payment for the time spent in processing the documents; and
- the petition signed by patent attorneys Ivor Elrifi and Christina Karnakis, which sets forth the circumstances of the presentation of the application papers and of the refusal of the inventor to join in the application and includes:
 - payment of the petition fee; and
 - a statement of the last known address of inventor Majumder.

The declarations filed November 22, 2002, have been reviewed and found in compliance with 35 USC §§ 115 and 116.

Having reviewed the petition, it is concluded that petitioner has met the requirements for acceptance of this declaration under § 1.47(a)¹.

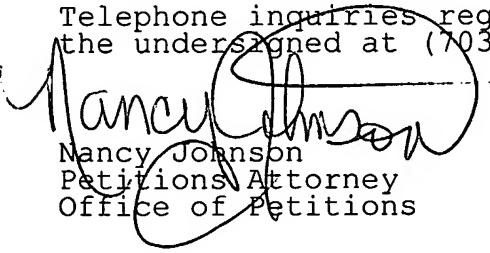
This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing.

- The Notice mailed April 22, 2002, also required compliance with the requirements of 37 C.F.R. 1.821-1.825. In response to applicants' response filed November 22, 2002, on December 26, 2002, the Office mailed a "Notice to Comply with Requirements for Patent Applications containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures." This decision in no way extends the period for reply to the Notice mailed December 26, 2002.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.


Nancy Johnson
Petitions Attorney
Office of Petitions

¹ A grantable petition under 37 C.F.R. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.



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Richard Shimkets, Kumud
Andrew Eisen, Corine V
Steven Spaderna, Jason
Linda Gorman, Vladimir
Muralidhara Padigaru,
Meera Paturajan, Veili
and Li Li
Application No.
Filed: February 27, 2
Attorney Docket No. 1
(CURA-75CIP)
Title: ENDOZEPINE-LIK
AND POLYNUCLEOTIDES E

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LETTER

Dear Dr. Majumder:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Petitions Attorney
Office of Petitions

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